IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

ARBITRATION PETITION NO. 19 OF 2006

Shri Suryaji P. Jadhav .. Petitioner

Vs.

The New India Assurance Co. Ltd. .. Respondent

Mr. M.A. Utagikar for petitioner.

CORAM : B. H. MARLAPALLE,J.

Date : May 05, 2006.

P.C.:

1. Heard Mr. Utagikar, the learned counsel for the petitioner. Clause 13 of the Standard Fire and Special Perils Policy (Material Damage) provides for an arbitral tribunal consisting of three Arbitrators and one of them being the Presiding Arbitrator to be appointed by the two Arbitrators representing the respecting sides.

2. It is evident from the letter dated 22/3/2006 addressed by the respondent-Assurance Company that it is willing to appoint its Arbitrator from Kolhapur and perhaps the arbitration proceedings are also expected to be held at Kolhapur as the insured property is admittedly located at Kolhapur. In Clause 13 of the policy there is no provision for appointment of sole Arbitrator and, therefore, the communication of the

present petitioner dated 7/4/2006 is not in keeping with the terms of the policy. Under such circumstances, this petition cannot be entertained and the petitioner will have to approach the respondent-Assurance Company seeking its nomination for appointment of panel Arbitrator so as to represent its case along with Mr. C.D. Aiyer, the panel Arbitrator nominated by the petitioner and these two Arbitrators, in turn, will appoint the Presiding Arbitrator.

3. Save and except above observations, the petition is rejected.

(B.H. Marlapalle, J.)